



**Public Comment on Development of the
American Conservation Stewardship Atlas (87 Fed. Reg. 235, 236)**

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Bozeman, Montana**

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Summary

- Honoring private property rights and supporting voluntary stewardship is essential to effective conservation because private land plays an outsized role in biodiversity, ecological integrity, and ecosystem services.
- To engage private landowners who may be uneasy about having their land designated for conservation on a government map and the risk of intrusive regulation, the Atlas should be reframed and rearticulated as a “catalog” or similar tool.
- The Atlas should reflect the diversity of private, voluntary conservation mechanisms by prioritizing recognition of areas conserved through private ownership and contracts.
- Conservation outcomes, not labels or regulatory designations, should guide consideration of whether public lands are being managed to meet conservation goals.
- To facilitate voluntary conservation on public lands, conservationists should be allowed to compete for natural resource leases on federal lands.

Introduction

The Property and Environment Research Center (PERC) respectfully submits this comment to the Department of the Interior regarding the development of the American Conservation Stewardship Atlas. The America the Beautiful initiative, which the Atlas seeks to advance, can showcase the strength and effectiveness of core values that make our country great: Free enterprise, entrepreneurship, a respect for private property, our strong conservation ethic, and a robust civil society.

PERC is a nonprofit conservation research institute located in Bozeman, Montana that explores market-based solutions to environmental problems. Founded in 1980, PERC’s mission is to improve environmental quality through markets, entrepreneurship, and property rights. PERC’s staff and associated scholars conduct original research that applies free market principles to resolving environmental disputes in a cooperative manner. This comment draws on decades of PERC research on habitat conservation practices on private and public lands.

PERC supports the America the Beautiful Initiative’s recognition of the power of the private sector, markets, and private property rights to deliver conservation outcomes. We believe that the Initiative’s values leverage the country’s strengths in pursuit of what White House National Climate Advisor Gina

McCarthy has described as the “first national conservation goal:” Conserving 30 percent of land and waters by the year 2030.

The Importance of Private Lands to Conservation

Putting these values into practice is essential considering that 60 percent of the country is in private ownership and these privately owned lands are among the most important to conserving biodiversity, maintaining ecological integrity, and providing ecosystem services. For instance, 80 percent¹ of American grasslands, one of the continent’s most productive habitats, and one with value for carbon sequestration, are privately owned. In places like the Greater Yellowstone Ecosystem, where PERC is headquartered, these privately owned grasslands provide as much as 80 percent² of the winter range for migratory big game, 93 percent³ of important bird habitat, and 39 percent⁴ of the dispersal routes connecting Yellowstone’s grizzly bears with those of the Greater Continental Divide Ecosystem. Additionally, 75 percent⁵ of wetlands and 56 percent⁶ of forests are in private or tribal ownership. These lands filter more than 25 percent⁷ of the nation’s freshwater supply, provide flood control and support commercial fisheries. With nearly half of all species managed under the federal Endangered Species Act depending on private lands for [80 percent](#)⁸ or more of their habitat, these lands are also essential to recovering endangered and threatened species.

Therefore, the success of the America the Beautiful initiative depends on the involvement of private lands and living up to its stated value of respecting property rights and supporting voluntary stewardship by meeting the millions of landowners who steward essential landscapes with understanding and empathy for their concerns.

Reframe the Atlas As a “Catalog”

Research indicates that many rural landowners are skeptical, and may even have antipathy towards, government-led conservation efforts.⁹ Indeed, government entities drawing lines on a map triggers fear of increased regulation, which can make conservation efforts needlessly politicized, divisive, and ultimately

¹ [North American Grasslands and Birds Report](#), by CB Wilsey, J Grand, J Wu, N Michel, J Grogan-Brown, B Trusty. National Audubon Society (2019).

² [Elk in Paradise: Conserving Migratory Wildlife and Working Lands in Montana’s Paradise Valley](#), by Whitney Tilt. PERC (July 2020).

³ “Rural Development and Biodiversity: A Case Study from Greater Yellowstone,” by A.J. Hansen and J.J. Rotella. Pgs 123-140 in: Levitt, J., ed. *Conservation in the Internet Age*. Island Press. New York (2002).

⁴ [Potential Paths for Male-Mediated Gene Flow to and From an Isolated Grizzly Bear Population](#), by Christopher Peck, Frank van Manen, Cecily Costello, Mark Haroldson, Lisa Landenburger, Lori Roberts, Daniel Bjornlie, and Richard Mace. *Ecosphere* 8(10), (October 2017).

⁵ See [Wetlands](#). USDA Natural Resources Conservation Service.

⁶ [“Private Forestland Stewardship,”](#) by Sarah Hines. USDA U.S. Forest Service, Climate Change Resource Center (October 2011).

⁷ [Private Forests, Housing Growth, and America’s Water Supply: A Report from the Forests on the Edge and Forests to Faucets Program](#), by Miranda Mockrin, Rebecca Lilja, Emily Weidner, Susan Stein, and Mary Carr. USDA U.S. Forest Service, Rocky Mountain Research Station. Gen-Tech Report 327 (September 2014).

⁸ US Fish and Wildlife Service. Endangered Species and Private Landowners. Factsheet.

⁹ See [“Understanding Rural Attitudes Toward the Environment and Conservation in America,”](#) by Robert Bonnie, Emily Pechar Diamond, and Elizabeth Rowe. Duke Nicholas Institute for Environmental Policy Solutions (February 2020).

ineffective.¹⁰ In Montana, it is often said you can bring a gun to a meeting but not a map. Therefore, use of the word “atlas” could distract from the America the Beautiful initiative’s commitment to respect property rights and prioritize voluntary conservation. To avoid this, the Biden administration should reframe and rearticulate this effort as a “catalog” or similar tool. We also encourage the administration to clearly define what the purpose of this tool is and how it will be used in future decision-making.

Finally, we strongly encourage the administration to be prudent in the level of detail it collects, the sources of information it uses, and whether data will be publicly available, including via the Freedom of Information Act. Maintaining the privacy of landowners is a component of respecting private property rights. The absence of safeguards increases the risk of landowner disinterest in contributing to the America the Beautiful Initiative and of inspiring political division and hostility towards the initiative. Moreover, a lack of adequate information safeguards could increase the risk of rare species being collected for the illicit wildlife and plant trades.

Include Private Conservation Efforts

It is critical to the success of the America the Beautiful Initiative that the Atlas advances the administration’s stated commitment to protecting property rights and voluntary stewardship in delivering conservation outcomes. It can do this by explicitly avoiding any appearance of equating conservation with regulatory designations and enrollment in government programs. Instead, the Atlas should explicitly prioritize recognition of areas conserved through private ownership and contractual arrangements.

These include:

1. Deeded properties owned by private conservation interests

Deeded properties owned by conservation interests deliver voluntary landscape scale conservation while respecting private property rights. This conservation also comes at no financial cost to the federal government.

For example, American Prairie has purchased nearly 100,000 deeded acres in eastern Montana from willing sellers, providing cost-effective, cutting edge conservation of a grassland ecosystem underrepresented in our system of publicly owned protected areas. Private ownership has given American Prairie a level of management flexibility not available to public land managers, exemplified best by their reintroduction of bison to the ecosystem.

The 27,000 deeded acres of the El Carmen reserve in Texas is much like the American Prairie Reserve in its contribution to landscape scale conservation delivered through the private sector. A partnership between non-profit conservation groups and private industry, the reserve conserves some of the most biodiverse land in the southwest, protecting important habitat for migratory birds and rare plants. In partnership with private landowners who donated the animals, the El Carmen has also successfully reintroduced once absent herds of mule deer and coveys of Gambel’s quail.

¹⁰ See, e.g., [Critical Habitat’s “Private Land Problem”: Lessons From the Dusky Gopher Frog](#), by Jonathan Wood and Tate Watkins. 51 Env’tl. L. Rep. 10,565, 10,570 (2021) (collecting studies showing that inclusion of private land on a critical habitat map immediately lowers the value of that land due to fear of future regulatory burdens).

No less important than these landscape level achievements are the acres of deeded land belonging to organizations such as The Nature Conservancy and local Audubon Societies. These smaller properties often help offset the ecological costs of development and agriculture, conserving migratory bird habitat, and areas on which threatened and endangered species depend.

2. *Land leased to conserve wildlife habitat*

Lands leased for conservation outcomes provide a level of flexibility America's conservation system needs to adapt to shifting landscape conditions brought on by climate change and other causes. Examples of leased conservation lands include the elk occupancy agreements being pioneered by PERC and the Greater Yellowstone Coalition in Montana and Wyoming. Under these agreements landowners are paid and provided other assistance to offset the financial costs of hosting migratory and wintering elk on their property. The end result of this is elk habitat that is more secure due to the reduced financial cost of providing it.

Similar contracts have been entered into by The Nature Conservancy to secure migratory bird habitat in California. Under these agreements farmers are paid to flood their fields during certain times of the year to ensure that migratory birds find the conditions they need to thrive.

3. *Land leased for hunting and other fish and wildlife dependent recreation*

While the number of hunters in the United States remains relatively static, hunting remains a keystone of American conservation efforts, especially on private lands. Research indicates that 22 percent¹¹ of America's private lands are leased by individuals and associations for hunting access. The presence of these leases directly correlates with the presence of wildlife habitat conserved in a passive, yet, effective manner.

Research also indicates that the ability of landowners to profit from providing hunting access encourages them to shift from passive to active conservation practices to provide the kinds of improved and increased hunting opportunities that can justify higher fees. f

4. *Small landowner oriented conservation programs*

America's nonprofits have led in engaging small landowners in voluntary conservation via programs like Audubon's ranching and farm certification and the National Wildlife Federation's Gardening for Wildlife and Certified Wildlife Habitat initiatives. These initiatives have brought conservation practices to more than 3.5 million acres, an area larger than Yellowstone National Park, and succeeded in engaging people in nature and outdoor recreation in places often distant from large expanses of public land.¹² At the same time they succeed in providing habitat for pollinators and migratory songbirds whose decline has been a subject of steady concern.

¹¹ [Evaluating Hunting as an Incentive for Habitat Conservation on Private Land in California](#), by Luke Macaulay. Gen. Tech. Rep. PSW-GTR-251. Berkeley, CA. USDA, U.S. Forest Service, Pacific Southwest Research Station (2015).

¹² [Garden for Wildlife: About](#). National Wildlife Federation.

Private landowners are dedicated to conservation, but a range of tools are needed to engage the wide range of landowners across the country. Conservation easements and federal landowner programs do not make sense for all landowners, so flexible approaches that provide tangible outcomes must be recognized and supported.

Recognize That Active Management is Active Conservation

When considering which stewardship actions should be considered for the American Conservation and Stewardship Atlas, the administration should focus on outcomes, not regulatory designations, for public lands. Promoting active management of federal forests, for instance, results in healthier forest ecosystems and should be an integral part of the America the Beautiful Initiative.

Landscape scale conservation requires tools that can adapt to the needs of public land managers and a changing environment. When managed appropriately, forests are not only at reduced risk of catastrophic wildfire, but also provide carbon sequestration, water sources, wildlife habitat, and recreation opportunities. Strict land designations emphasizing preservation rather than active conservation make it difficult for federal land managers to conduct needed restoration work, including prescribed burns and selective thinning, to restore national forests and conserve the many benefits they provide.

The Forest Service's new plan to improve resilience in our forests, "Confronting the Wildfire Crisis," is a needed step and should be reflected in the Atlas. Tools including prescribed burns, selective timber harvest, underbrush thinning, and weed control are needed to treat the 63 million acres of national forests identified at high risk of extreme wildfires. Failing to take such actions can undermine conservation objectives in the long run.

The recent Bootleg Fire in Oregon demonstrates the importance of forest management for conservation. While the fire raged last summer, it burned close to 100,000 acres of the Klamath East carbon-offset project, destroying the carbon sequestration efforts.¹³ However, when the fire hit the Sycan Marsh Preserve, which had been treated by the Nature Conservancy with prescribed burns and selective thinning, the fire became manageable. The fire still burned, but at a lesser intensity, leaving habitat intact and even restored rather than being completely incinerated.¹⁴

Completing the forest restoration projects outlined in "Confronting the Wildfire Crisis" and the accompanying implementation plan will require policy changes to efficiently move projects through environmental review requirements and better involve state and private partners.¹⁵ The Biden administration should continue to advance efforts to actively manage federal forests and include those efforts in the Atlas, emphasizing a focus on conservation outcomes rather than preservationist land designations.

Incorporate Conservation Leasing on Public Lands

¹³ "[Wildfires are ravaging forests set aside to soad up greenhouse gases.](#)" by Winston Choi-Schagrin. *New York Times* (August 23, 2021).

¹⁴ "[The fire moved around it': success story in Oregon fuels calls for prescribed burns.](#)" by Maanvi Singh. *The Guardian* (August 12, 2021).

¹⁵ See [Fix America's Forests: Reforms to Restore National Forests and Tackle the Wildfire Crisis](#), by Holly Fretwell and Jonathan Wood. *PERC Public Lands Report* (April 2021).

As the Biden administration considers what should be included in the Atlas, it will have to decide how to treat the extraction of public resources on public lands. Public land leases for activities such as oil and gas extraction, grazing, and timber harvest are held by private bidders. In some cases, these activities can interfere with conservation or recreation activities on public lands.

Many groups, businesses, or individuals with a conservation goal would be interested in holding these public resource leases for conservation purposes. But holding a lease for a non-extractive use is not currently allowed at a federal level. Drilling rights have recently been sold to energy companies in critical migration corridors and prime sage grouse habitat for as little as \$2 per acre. Environmentalists would likely pay far more to protect ecologically important areas if given the opportunity. As the administration advances the America the Beautiful initiative, it should explore ways to let conservation be a valid use of public resources and allow conservation interests to compete with industry for these leases by eliminating “use it or lose it” requirements.¹⁶

President Biden acknowledged the potential conservation value of conservation leasing in his October 8, 2021 proclamation restoring Grand Staircase-Escalante National Monument.¹⁷ In this proclamation, President Biden directed the Secretary of the Interior to retire grazing permits within the national monument that are voluntarily relinquished. Under current rules, some conservation groups are able to pay permit holders to submit their permits for retirement or purchase the associated base properties and permits themselves and submit the permits for retirement. While this approach has worked in certain areas, it is generally forbidden under both BLM and Forest Service regulations.

The Biden administration should recognize the limited areas of public land where conservation leasing has been allowed—either under region-specific legislation authorized by Congress or in states that permit conservation leasing on state-owned lands—in the Atlas. The Wyoming Range Legacy Act, for example, enables groups to negotiate buyouts of existing oil and gas leases on certain national forest lands in the state and retire them from future development. The nonprofit Trust for Public Lands has raised private donations to purchase drilling rights from energy companies to protect more than 80,000 acres in Wyoming.¹⁸ In 2012, the group raised \$8.75 million from more than 1,000 donors to purchase and retire leases covering 58,000 acres, including a crucial migration corridor for ungulates.¹⁹

The Biden administration has the opportunity to incorporate conservation leasing ideas into its reviews of the oil and gas program and grazing program. Giving permittees and conservation interests flexibility to negotiate could alleviate conflict between extractive industry and conservation interests over public land parcels that hold significant environmental value. With conservation leasing, areas that were previously only used for extraction can be dedicated to environmental stewardship, creating “new” conservation lands that should be included in the America the Beautiful initiative and Atlas.

Conclusion

¹⁶ See [Allow ‘nonuse rights’ to conserve natural resources](#), by Bryan Leonard, Shawn Regan, Christopher Costello, Suzi Kerr, Dominic P. Parker, Andrew J. Plantinga, James Salzman, V. Kerry Smith, Temple Stoellinger. *American Association for the Advancement of Science*. Vol. 373, Issue 6558, pp. 958-961 (August 2021).

¹⁷ Proclamation No. 10286, 86 Fed. Reg. 197 (October 15, 2021).

¹⁸ “[Billionaire funds deal to retire Wyo. drilling leases](#),” by Scott Streater. *E&E News* (July 5, 2018).

¹⁹ “[Hoback Drilling Leases Acquired from PXP](#),” Trust for Public Land (January 2, 2013).

The America the Beautiful Initiative is an opportunity to reimagine American conservation and expand our country's conservation achievements by harnessing our core national values and strengths. For too long private landowners and the private sector have been viewed as targets to be fixed, rather than partners in conservation. Despite this, private interests have continued to build, shape, and contribute to America's success in conserving fish, wildlife, and habitat. The America the Beautiful Initiative recognizes this and sets the stage for a level of success that will be an example for the world to follow.

For this to happen though, implementation of the initiative must proceed with the sensitivities and legitimate interests of private landowners and other private sector leaders in mind. Creating new voluntary incentives, including removing regulatory barriers that punish landowners for the presence of rare species, habitats, or other environmental values, will engage more private landowners in active conservation. These efforts can make it crystal clear to landowners that the America the Beautiful Initiative's emphasis of private property rights and voluntary stewardship is not mere messaging but is being pursued in good faith.

The above recommendations will help achieve conservation outcomes and we look forward to continuing to work with the administration to advance the America the Beautiful Initiative.